

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MARVIN MAURICE CAMPBELL,

Movant,

v.

UNITED STATES OF AMERICA,

Respondent.

No. 11-cv-00073 CW  
09-cr-00640 CW

ORDER DENYING MOTION  
FOR APPOINTMENT OF  
COUNSEL

On January 6, 2011, Movant Marvin Maurice Campbell, an inmate incarcerated at the Federal Detention Center in Dublin, California, moved to vacate or correct his sentence under 28 U.S.C. § 2255 on the ground of ineffective assistance of counsel and also moved for an evidentiary hearing. On January 14, 2011, the Court issued an Order to Show Cause for Respondent to file an answer to the motion. On January 18, 2011, Movant moved for appointment of counsel.

A § 2255 proceeding is a civil proceeding for which there is no Sixth Amendment right to appointment of counsel. United States v. Angelone, 894 F.2d 1129, 1130 (9th Cir. 1990). However, under 18 U.S.C. § 3006A(2)(B), a person seeking relief under § 2255 may be provided counsel when "the court determines that the interests of justice so require and such person is financially unable to obtain representation." The district court has wide discretion in

1 deciding whether to appoint counsel for a § 2255 motion. LaMere v.  
2 Risley, 827 F.2d 622, 626 (9th Cir. 1987). The court should  
3 consider the likelihood of success on the merits and the ability of  
4 the movant to present his claims in light of the complexities of  
5 the issues involved. Weygandt v. Look, 718 F.2d 952, 954 (9th Cir.  
6 1983). Appointment of counsel becomes mandatory when an  
7 evidentiary hearing is required. Bashor v. Risley, 730 F.2d 1228,  
8 1234 (9th Cir. 1984).

9 In the instant case, this Court does not anticipate the need  
10 for an evidentiary hearing. Additionally, there is no indication  
11 that Movant is unable to present his claims in a coherent and  
12 comprehensive manner. Consequently, the Court denies Movant's  
13 request for appointment of counsel without prejudice. Movant may  
14 renew his request after Respondent has filed its answer to the  
15 order to show cause.

16  
17 IT IS SO ORDERED.

18  
19 Dated: 1/24/2011

20   
21 CLAUDIA WILKEN  
22 United States District Judge  
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1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 NORTHERN DISTRICT OF CALIFORNIA

4 et al,

5 Plaintiff,

6 v.

7 et al,

8 Defendant.  
9 \_\_\_\_\_/

Case Number: CR 09-00640 CW

**CERTIFICATE OF SERVICE**

10 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court,  
11 Northern District of California.

12 That on January 24, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said  
13 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said  
14 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located  
15 in the Clerk's office.

16 Marvin Maurice Campbell 14002-111  
17 Federal Detention Center  
18 5675 8th Street, Camp Parks  
19 Dublin, CA 94568

20 Dated: January 24, 2011

21 Richard W. Wieking, Clerk  
22 By: Nikki Riley, Deputy Clerk  
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United States District Court  
For the Northern District of California